

**South Carolina Residential Builders Commission
Board Meeting Minutes, Wednesday, August 9, 2006 – 10:00 am
Synergy Business Park, Kingstree Building
Columbia, South Carolina**

MEMBERS PRESENT

**John Curl
Al Bailey
Frank Clark
Gale Crawford
Caleb Davis
Timothy Roberts
Derrick Williams**

OTHERS PRESENT

**Rick Wilson, Deputy General Counsel
Louis Rosen, Hearing Advisor
Kent Lesesne, Staff Attorney
Bob Selman, ADD
Charles McAlister, Administrator
Charles Ido, Chief of Investigations, OIE
Christine Driver, Administrative Assistant
Patrice Deas, Administrative Assistant
Patricia Nye Andrews, Court Reporter**

MEMBERS ABSENT

Public Notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the S. C. Freedom of Information Act. A quorum was present at all times.

Call to Order

Mr. John Curl, Chairman, called the meeting to order.

Approval of Minutes

Motion: Mr. Bailey moved to approve the minutes of the June 14, 2006 meeting. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of Investigative Review Committee

Motion: Mr. Bailey moved to approve the recommendations of the Investigative Review Committee, dated June 6, 2006 and July 6, 2006. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of the Administrative Hearing Officer, David Bennett, for Citation Appeals

Motion: Ms. Crawford moved to approve the recommendations of the Administrative Hearing Officer, David Bennett, for Citation Appeals on behalf of Donnie D. Cantrell, Mike Hickman, Sylvester Key, and Lee Mayers. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Approve Recommendation of Administrative Hearing Officer, David Bennett, for Bond Hearings

Motion: Ms. Crawford moved to approve the recommendations of the Administrative Hearing Officer, David Bennett, for Bond Hearings on behalf of David Crawford. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Approve Recommendations of Administrator, Charles McAlister, for Bond Claim

Motion: Ms. Crawford moved to approve the recommendations of the Administrator, Charles McAlister, for Bond Claim on behalf of David Crawford. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Request for Reinstatement of License

Daniel E. Turner – Mr. McAlister informed the Commission that on, July 21, 2003, Mr. Turner’s residential specialty contractor’s registration was revoked. Mr. Turner failed to perform construction services for which he was paid and failed to refund monies to a homeowner.

Mr. Turner respectfully asked the Commission to reinstate his residential specialty contractor’s registration. He stated that he feels that he has matured and has corrected any wrong doings and will do what the Commission asks to make things right.

Motion: Ms. Crawford moved to approve the reinstatement of Mr. Turner’s residential specialty contractor’s registration provided he submit a surety bond, provide proof that monies owed to homeowner were refunded, and one year probation. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Bob Shirkey – Mr. McAlister informed the Commission that Mr. Shirkey’s attorney, Adam Fisher, Jr., requested the application review be continued until September.

Mike Seabrook – Mr. McAlister informed the Commission that Mr. Seabrook’s residential builder’s license was previously revoked and reinstated in 1994. In October 1997 a Final Order was issued by the Commission regarding allegations of misconduct because Mr. Seabrook licensed was lapsed at the time. It was noted that the Commission received two more complaints from homeowners after he let his license lapse in 1997, which complaints have not been resolved and a Do Not Renew Order was issued.

Motion: Mr. Bailey moved to deny reinstatement of Mr. Seabrook’s residential builder’s license at this time. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Application Reviews

Mr. Rick Wilson, Deputy General Counsel, informed the Commission that these applications are before them today because applicants have answered yes on the application or renewal forms to certain questions. This is an exercise for the Commission to gain experience as to what cases staff can handle, what cases staff can handle with advice of the chair and which cases should come before the full Commission.

Mr. Wilson further informed the Commission that they need to focus on the issues of incompetence and financial matters. When yes answers appear on applications or renewals the Commission should be looking for a response to that answer. These are situations where individuals have the responsibility to satisfy the Commission and show that they are qualified for the license they have requested. They are entitled to legal counsel and to submit any documentation to support their issues. This will help the Commission to effectively focus on the qualifications of applicants before they can do damage to the public. A policy will be drafted for review at a later time.

Mr. Wilson stated issues of manslaughter or probation should be considered before the full Commission. Older cases that do not involve serious crimes of violence or a felony can be handled at staff level. Drug issues that are not a crime of violence can be issued at staff level. Mr. Wilson advised Mr. McAlister to request some type of documentation on issues of probation and time served prior to appearance before the full Commission.

Mr. McAlister informed the Commission that the applications ask the question “do you have any complaints pending, under investigation, or has any action been taken against your license in any jurisdiction”. Mr. McAlister requested direction from the Commission concerning outstanding complaints and citations.

Ron Smith – Mr. Smith did not appear after proper notice had been provided. Mr. McAlister informed the Commission that Mr. Smith allowed his residential specialty contractor’s registration to lapse and did not submit his application for a residential electrical license and a residential plumbing license before the grandfather period ended. Mr. Smith request is for the issuance of a residential specialty electrical license without examination.

Motion: Ms. Crawford made a motion to honor the request and that the Commission uphold the policy that if a license has expired and the licensee was grand fathered in at the time of renewal, then they must be tested prior to a license being issued. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Randy S. Wheeler – Representative Walt McLeod represented Randy S. Wheeler for grandfathering of his residential specialty HVAC license. Mr. Wheeler’s residential specialty contractor’s registration expired in 2003 and he did not obtain his residential specialty HVAC license during the grandfather period. Mr.

McLeod advised that Mr. Wheeler is a very responsible and dedicated individual and holds a residential specialty electrical license at this time. Mr. Wheeler stated that he was under the impression that his electrical license would allow him to do HVAC work. Mr. Wheeler did not submit his renewal fees for his residential specialty HVAC license because he thought that his electrical license was a higher license and would qualify him to do residential HVAC work.

Mr. Curl stated that three years ago the Commission started the process of issuing a residential HVAC license and allowed the grandfather process for a period of six months. In 2005 the Commission started the process of licensing residential plumbers and residential electricians and allowed the grandfather process for a period of six months.

Mr. Curl stated that Mr. Wheeler is requesting a residential specialty HVAC license without going through the process of examination. Mr. McAlister stated that the rules were that you had to be registered two years prior to being licensed. Mr. Wheeler met the criteria, but failed to obtain the residential specialty HVAC license in a timely fashion due to his misunderstanding of the new law. Mr. Wheeler holds a residential electrical license at this time.

Motion - Ms. Crawford moved to issue Mr. Wheeler a residential specialty HVAC license without examination. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Joseph D. Caulder, III – Mr. Doug Jennings, Esquire, and counsel for Mr. Caulder informed the Commission that Mr. Caulder is before the Commission today because he answered “yes” to the question on the residential specialty HVAC renewal application inquiring into arrest for criminal violations. Mr. Caulder advised that he was arrested for alleged murder, which charges are still pending in the Marlboro County Court. He further advised that Mr. Caulder conducts business as Artic Temp Heating and Cooling and has an impeccable reputation and has never been in trouble with the law. In June Mr. Caulder was charged with murder and has pled not guilty and is awaiting a jury trial. Mr. Caulder has been released on a \$35,000.00 bond set by the Honorable Edward B. Cottingham. Mr. Jennings and Mr. Caulder explained that the charges involved the nighttime pursuit of a thief and a shooting during a confrontation in the woods.

Motion: Mr. Clark moved to offer Mr. Caulder an agreement in which he will be allowed to renew his residential specialty HVAC license and if convicted immediately surrender his license. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Scott Myers – Although the record shows that Mr. Myers was properly notified of this hearing he did not appear in person or by counsel.

The Commission reviewed Mr. Myers’s record of criminal convictions for shoplifting in “1987” and trespassing in “1989”. There has been no more arrest or convictions since 1989.

Mr. Bailey and Mr. Davis recused themselves from voting in this matter.

Motion – Ms. Crawford made a motion to approve Mr. Myers’s application for a residential builder’s license. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Tom Adams, Jr. – Mr. McAlister informed the Commission that he spoke to Mr. Adams and he is in the process of working out the pending complaint and will provide a letter by Friday that the issues have been resolved. Mr. Adams accordingly asked for permission to withdraw his application at this time.

Motion: Mr. Clark made a motion to allow Mr. Adams to withdraw his application at this time. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

David C. Grice – Mr. McAlister informed the Commission that Mr. Grice has applied for a residential specialty contractor’s registration and his credit report showed a tax lien in the amount of \$15,380. However, he answered “No” to the pertinent question on the application. Mr. Grice stated that he answered “No” because he was not aware of the lien until he applied for the residential specialty contractor’s registration. This is a tax lien from 1993 and is setting up a payment schedule with the IRS and has already made a payment of Five Hundred (\$500.00) Dollars to the IRS. Mr. Grice stated that the liens were a result of a car accident and had three back surgeries. He has had no other financial problems.

Motion: Mr. Williams moved to approve Mr. Grice’s application for a residential specialty contractor’s registration. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

New Business

Mr. McAlister presented to the Commission an issue that was before them in June where they approved his recommendation for a bond claim in the amount of Six Thousand Five Hundred (\$6,500.00) Dollars on behalf of Joe Small. Mr. McAlister stated that he has negotiated with the bonding company and is requesting that they amend the bond claim to Six Thousand (\$6,000.00) Dollars.

Motion: Mr. Davis moved to amend the bond claim on behalf of Joe Small from Six Thousand Five Hundred (\$6,500.00) Dollars to Six Thousand (\$6,000.00) Dollars. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Unfinished Business

None

Adjournment

There being no further business, the business meeting for August 9, 2006 concluded at 11:45 a.m.

The next scheduled board meeting will be held on September 13, 2006, at 10:00 a.m. Synergy Business Park, Kingstree Building, Room 108. (Note: Subject to Change)

Hearings

Mr. Curl called the hearings to order. Mr. Louis Rosen was the hearing advisor. Mr. Kent Lesesne represented the state.

Approve Recommendations of Administrative Hearing Officers, John Curl for Administrative Hearings

Joseph W. Baker - This matter was heard before John Curl, Administrative Hearing Officer, on May 16, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent pay a fine of Twenty-Five Hundred (\$2,500.00) Dollars. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine shall prevent the Respondent from being re-licensed.
2. The Respondent's license as a residential builder be, and it hereby is, revoked. The Respondent is directed to return his pocket card to the Commission's office within seven (7) days of the service of this order upon him.
3. If the Respondent reapplies in the future for licensure, he must appear before the Commission, and answer to the Commission for his incompetence, or misconduct in this matter. At that time, the Respondent shall appear before the Commission and present, its discretion, regarding the Respondent's fitness and qualification to be licensed as a residential builder in this state. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms and conditions upon the Respondent's license, as it may deem appropriate.
4. The original complainant (homeowner) is granted permission to file a claim against the Respondent's surety bond.
5. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
6. This Order is to take effect immediately.

Mr. John Curl recused himself from voting because he was the hearing officer in this matter.

Motion Mr. Davis moved to approve John Curl's, Administrative Hearing Officer's Recommendation for Joseph W. Baker. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Steven Finley – This matter was heard before John Curl, Administrative Hearing Officer, on May 16, 2006.

Mr. Curl's recommendation was as follows:

1. This matter be, and it hereby is, dismissed.
2. This order is to take effect immediately.

Mr. John Curl recused himself from voting because he was the hearing officer in this matter.

Motion Mr. Davis moved to approve John Curl, Administrative Hearing Officer's Recommendation for Steven Finley. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

William Strait – This matter was heard before John Curl, Administrative Hearing Officer, on May 16, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent's license as a residential builder be, and is hereby is, revoked. The Respondent is directed to return his pocket card to the Commission's offices within seven (7) days of the service of this order upon him.
2. If the Respondent reapplies in the future for licensure, he must appear before the Commission, and answer to the Commission for his gross negligence, incompetence, or misconduct in this matter. At that time, the Respondent shall appear before the Commission and present, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondent's fitness and qualifications to be licensed as a residential builder in this state. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms and conditions upon the Respondent's license, as it may deem appropriate.
3. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
4. This order is to take effect immediately.

Mr. John Curl recused himself from voting because he was the hearing officer in this matter.

Motion Mr. Davis moved to approve John Curl, Administrative Hearing Officer's Recommendation for William Strait. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Travis Pearson – This matter was heard before John Curl, Administrative Hearing Officer, on June 13, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent be, and he hereby is, publicly reprimanded.
2. The original complainant (homeowner) is granted permission to file a claim against the Respondent's surety bond.

3. This order is to take effect immediately.

Mr. John Curl recused himself from voting because he was the hearing officer in this matter.

Motion Mr. Davis moved to approve John Curl, Administrative Hearing Officer's Recommendation for Travis Pearson. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Hearings

<u>Builder</u>	<u>Homeowner</u>	<u>Case #</u>	<u>Order</u>
Michael Johnson	Calvin Herron	2005-145	Dismiss
Michael Carr	Lee Anthony	2004-330	Consent Agreement \$1,000.00 Fine/30 Days

Transcripts of these hearings may be obtained from Patricia Nye Andrews, Certified Court Reporter, Garber Reporting Service.